

(d) Retail dealers in liquors or retail dealers in beer who merely receive and transmit to a wholesale dealer orders for liquors or beer to be billed, charged, and shipped to customers by such wholesale dealers.

Such persons, who have no property rights in the liquors or beer sold, may make collections for their principals and receive commissions for their services, or guarantee the payment of accounts, without being required to pay special tax. In all such cases, however, the principal is required to pay special tax at each place where sales are consummated, unless he is exempt therefrom under the provisions of this subpart.

§ 194.190 Apothecaries or druggists selling medicines and tinctures.

Apothecaries and druggists who use wines or spirituous liquors for compounding medicines and in making tinctures which are unfit for use for beverage purposes are not required to pay special tax as dealers in liquors by reason of the sale of such compounds or tinctures for nonbeverage purposes.

(72 Stat. 1328; 26 U.S.C. 5025)

§ 194.191 Persons selling products unfit for beverage use.

(a) *Vendors not deemed dealers in liquors or beer.* No person selling or offering for sale for nonbeverage purposes products classed as unfit for beverage use under the provisions of § 19.58 of this chapter shall be deemed, solely by reason of such sales, to be a dealer in liquors.

(b) *Restrictions.* Any person who sells or offers for sale any nonbeverage products for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, shall pay special tax as a wholesale or retail dealer in liquors or as a wholesale or retail dealer in beer, as the case may be.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-379, 61 FR 31426, June 20, 1996]

§ 194.192 Retail dealer selling in liquidation his entire stock.

No retail dealer in liquors or retail dealer in beer, selling in liquidation his entire stock of liquors in one parcel, or in parcels embracing not less than his entire stock of distilled spirits, of wines, or of beer, which parcels may contain a combination of any or all such liquors, to any other dealer shall be deemed to be a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be, by reason of such sale or sales. A retail dealer making such sale or sales is not required to keep records or submit reports thereof.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.193 Persons returning liquors for credit, refund, or exchange.

No retail dealer in liquors or beer, or other person, shall be deemed to be a wholesale dealer in liquors or a wholesale dealer in beer, as defined in this part, by reason of his bona fide return of distilled spirits, wines, or beer, as the case may be, to the dealer from whom purchased (or to the successor of such vendor's business or line of merchandise) for credit, refund, or exchange, and the giving of such credit, refund or exchange shall not be deemed to be a purchase within the meaning of 26 U.S.C. 5117 of § 194.211 of this part. Except in the case of wholesale dealers in liquors required to keep records of their transactions under §§ 194.225 and 194.226, or retail dealers required to keep records under § 194.234, persons returning liquors as provided herein are not required to keep records or submit reports of such transactions.

(72 Stat. 1340, 1343; 26 U.S.C. 5113, 5117)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55844, Sept. 28, 1979; T.D. ATF-116, 47 FR 51571, Nov. 16, 1982]

Subpart M—Refund of Special Taxes

§ 194.201 Claims.

Claims for abatement of assessment of special tax (including penalties and interest), or for refund of an overpayment of special tax (including interest and penalties), shall be filed on Form 2635 (5620.8). Claims shall be filed with

the regional director (compliance) serving the region in which the special tax was paid or assessed. Each claim shall set forth in detail each ground on which it is made and shall contain facts sufficient to apprise the Bureau of Alcohol, Tobacco and Firearms of the exact basis thereof. If the claim is for refund of special tax for which a stamp was issued, such stamp shall be attached to and made a part of the claim, or the claimant shall include in the claim evidence satisfactory to the Bureau of Alcohol, Tobacco and Firearms that the stamp cannot be submitted.

[T.D. ATF-251, 52 FR 19336, May 22, 1987]

§ 194.202 Time limit on filing of claim.

No claim for the refund of a special tax or penalty shall be allowed unless presented within 3 years next after the payment of such tax or penalty.

(68A Stat. 808; 26 U.S.C. 6511)

§ 194.203 Discontinuance of business.

A dealer who for any reason discontinues business is not entitled to refund for the unexpired portion of the fiscal year for which the special tax stamp was issued.

(72 Stat. 1346; 26 U.S.C. 5142)

Subpart N—Restrictions Relating to Purchases of Distilled Spirits

§ 194.211 Unlawful purchases of distilled spirits.

(a) *General.* It is unlawful for any dealer to purchase distilled spirits for resale from any person other than:

(1) A dealer who has paid special tax as a wholesale dealer in liquors at the place where the distilled spirits are purchased;

(2) A wholesale dealer whose place of business comes within the exemptions provided by § 194.151 for changes in location and § 194.169 for changes in control;

(3) The proprietor of a distilled spirits plant who is exempt from special tax as a dealer at the place where the distilled spirits are purchased;

(4) A retail liquor store operated by a State, a political subdivision thereof, or the District of Columbia, which is

not required to pay special tax as a wholesale dealer in liquors as provided in § 194.31;

(5) A person not required to pay special tax as a wholesale liquor dealer, as provided in §§ 194.188 through 194.190 and 194.192 through 194.193.

(b) *Special provisions for limited retail dealers.* A limited retail dealer may purchase distilled spirits for resale from a retail dealer in liquors.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1343; sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5117))

[T.D. ATF-42, 42 FR 8370, Feb. 10, 1977]

Subpart O—Prescribed Records and Reports, and Posting of Signs

WHOLESALE DEALERS' RECORDS AND REPORTS

§ 194.221 General requirements as to distilled spirits.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall keep daily records of the physical receipt and disposition of distilled spirits, as prescribed in §§ 194.225 and 194.226. When required in writing by the regional director (compliance), dealers shall also prepare and file a monthly summary report totaling the daily receipts and disposition of distilled spirits as prescribed in § 194.230.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF-116, 47 FR 51571, Nov. 16, 1982]

§ 194.222 Requirements as to wines and beer.

Each wholesale dealer in liquors who receives wines, or wines and beer, and each wholesale dealer in beer shall keep at his place of business a complete record of all wines and beer received, showing (a) the quantities thereof, (b) from whom received, and (c) the receiving dates. This record, which must be kept for a period of not less than three years as prescribed in § 194.237, shall consist of all purchase invoices or bills covering wines and beer received or, at the option of the dealer, a book record containing all of the required information. Wholesale dealers are not required to prepare or